

REMARKS

By this Amendment, claims 13-18 and 29-48 are canceled, without prejudice or disclaimer and reserving the right to re-present the subject matter of any of those claims in this application or another application claiming priority to this application. In addition, claims 49-60 are newly added. Support for the new claims can be found in the original specification, drawings, and claims, as filed. Thus, claims 49-60 are currently pending, with claim 49 being independent.

As an initial matter, Applicants wish to express sincere appreciation to the Examiner for the telephone interview held on October 20, 2008. During the interview, claim amendments (i.e., identical to those presented in this Amendment) were discussed, where the Examiner indicated that the claim amendments appeared to overcome the outstanding 35 U.S.C. § 102(b) rejection based on U.S. Patent No. 4,981,801 ("Suzuki").

As another initial matter, Applicants note that a marked-up copy of the Form PTO 1449 filed with the Information Disclosure Statement (IDS) of September 27, 2004, which was attached to the Office Action, appears to indicate that two foreign patent documents listed in the Form were not considered by the Office. The Office Action does not include any explanation as to why these documents were not considered by the Office. Applicants note that copies of these documents were submitted to the Office with the September 27, 2004 IDS and, according to the Patent Application Information Retrieval (PAIR) system, scanned into the application file wrapper. If the Office did not consider these documents because statements of relevance or translations were not

provided, Applicants note that, in lieu of such statements or translations, an English version of the communication (i.e., Notice of Reasons for Rejection mailed July 1, 2004) from the Japanese Patent Office, which cited these documents and set forth the relevance thereof, has been submitted to the Office along with the documents. Therefore, Applicants respectfully request that the Office consider these documents and provide a marked-up copy of the Form PTO 1449, indicating that these documents were considered, in the next communication to Applicants.

In the Office Action, claims 46-48 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Suzuki.

Although Applicants do not necessarily agree with the rejection reasons set forth in the Office Action, Applicants canceled claims 46-48 and, in place of the canceled claims, presented new claims 49-60 to more clearly define the claimed subject matter. As agreed upon during the interview, new claims 49-60 patentably distinguish from Suzuki for at least the following reasons.

Independent claim 49 is directed to a system for manipulating and thermal cycling a sample well tray. The system includes "a thermal cycling device generally defining a horizontal cross-sectional area and comprising a sample block ... for receiving the sample well tray." The system also includes "a sample well tray handling apparatus comprising: a sample well tray holder [and] a rotational actuator configured to rotate the sample well tray holder about a rotational axis ..., wherein the sample well tray handling apparatus is configured to move the sample well tray from a first location outside the cross-sectional area to a second location inside the cross-sectional area

and then later remove the sample well tray from the second location to the first location.” As detailed below, Suzuki does not teach or otherwise suggest the subject matter of claim 49.

Suzuki discloses an automatic chemical analyzer utilizing an automatic cycling reaction apparatus. The apparatus includes a rack 88 for holding a number of reaction vessels 87 in a matrix that can be successively transported between thermostats 71-75 and a stage 76 for effecting the desired reaction and fluorometry, respectively. Col. 11, lines 49-56. Rack 88 is supported by a bifurcated arm 90 that is secured to a shaft 93. As best shown in Figs. 7 and 8, rotation of shaft 93 causes arm 90 and rack 88 to rotate between thermostats 71-75 and stage 76.

In the Office Action, the Examiner asserted that rack 88 of Suzuki allegedly corresponds to the recited “sample well tray.” Also, the Examiner asserted that arm 90 and shaft 93 allegedly correspond to the recited “sample well tray handling apparatus.”

Without necessarily agreeing with the Examiner’s apparent characterizations, Applicants note that Suzuki does not disclose, among other things, “the sample well tray handling apparatus [being] configured to move the sample well tray from a first location outside the cross-sectional area to a second location inside the cross-sectional area and then later remove the sample well tray from the second location to the first location,” as recited in claim 49. Instead, arm 90 and shaft 93 (i.e., “sample well tray handling apparatus,” according to the Examiner’s characterization) of Suzuki can only move rack 88 inside a horizontal cross-sectional area defined by the cycling reaction

apparatus, as clearly shown in Figs. 7 and 8. That is, arm 90 and shaft 93 cannot move rack 88 outside the horizontal cross-sectional area, as recited in claim 49.

For at least this reason, independent claim 49 and its dependent claims patentably distinguish from Suzuki. Thus, reconsideration and withdrawal of this rejection is respectfully requested.

Applicants respectfully request reconsideration of this application, withdrawal of the 35 U.S.C. § 102(b) rejection, and timely allowance of all of claims 49-60.

The Office Action contains a number of statements and characterizations regarding the claims and the related art. Applicants decline to necessarily subscribe to any statement or characterization in the Office Action, regardless of whether it is addressed above.

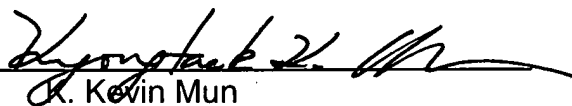
Should the Examiner believe a telephone conversation might advance prosecution of this application, he is invited to call the undersigned at 571-203-2739.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: 
X. Kevin Mun
Reg. No. 50,585
(571) 203-2739